

RECORDATION NO. 20795 FILED  
JUL 29 '97 4-10 PM

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RECORDATION NO. 20795-A FILED  
JUL 29 '97 4-10 PM

July 29, 1997

Mr. Vernon A. Williams  
Secretary  
Surface Transportation Board  
Washington, D.C. 20423

Dear Mr. Williams:

Enclosed for recordation pursuant to the provisions of 49 U.S.C. Section 11301(a), are two (2) copies of a Locomotive Lease Agreement, dated as of March 6, 1997, a primary document as defined in the Board's Rules for the Recordation of Documents, and two (2) copies of a Chattel Paper and Equipment Purchase Agreement, dated June 27, 1997, a secondary document related thereto.

The names and addresses of the parties to the enclosed documents are:

Locomotive Lease Agreement

Lessor: Relco Locomotives, Inc.  
113 Industrial Avenue  
Minooka, Illinois 60447

Lessee: Formosa Plastics Corporation, Texas  
201 Formosa Drive  
Point Comfort, Texas 77978

Counterparts - Betty Johnson

Mr. Vernon A. Williams  
July 29, 1997  
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Chattel Paper and Equipment Purchase Agreement

Seller: Relco Locomotive, Inc.  
113 Industrial Avenue  
Minooka, Illinois 60447

Buyer: Charter Financial, Inc.  
153 East 53rd Street  
New York, New York 10022

A description of the railroad equipment covered by the enclosed documents is:

two (2) EMD locomotives ICG 8043 and CC 8405

Also enclosed is a check in the amount of \$48.00 payable to the order of the Surface Transportation Board covering the required recordation fee.

Kindly return stamped copies of the enclosed documents to the undersigned.

Very truly yours,

  
Robert W. Alvord

RWA/bg  
Enclosures

JUL 29 '97

4-10 PM

## CERTIFICATE OF AUTHENTICATION

THE UNDERSIGNED HEREBY CERTIFIES that the copy of the Locomotive Lease Agreement is a true and correct copy of those which have been delivered to Charter Financial, Inc. by Relco Locomotives, Inc. in connection with Locomotive Lease Agreement by and between Relco Locomotives, Inc., an Illinois corporation, as Lessor and Formosa Plastics Corporation, Texas, a Texas corporation.

Dated this 30th day of June 1997

CHARTER FINANCIAL, INC.



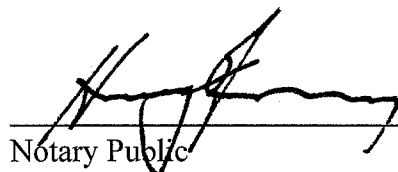
Stewart Abramson  
Senior Vice President

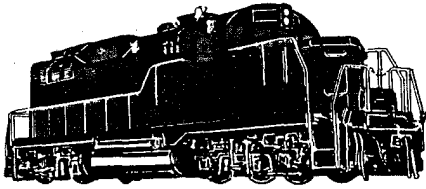
STATE OF NEW YORK, COUNTY OF NEW YORK

ss:

On the 30th day of June, 1997 before me personally came Stewart Abramson to me known, who, being by me duly sworn, did depose and say that she is the Senior Vice President of Charter Financial, Inc., the corporation described in and which executed the foregoing instrument; that she knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation, and that she signed her name thereto by like order.

HENRY FROMMER  
Notary Public, State of New York  
No. 02FR5039738  
Qualified in New York County  
Commission Expires Feb. 21, 1997

  
Notary Public



JUL 29 '97

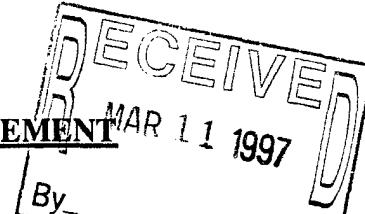
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# RELCO LOCOMOTIVES, INC.

113 INDUSTRIAL AVENUE • MINOOKA, IL 60447-0058 • 815-467-3030 • FAX 815-467-3039

*5/12/97 Original to  
Charles Francis*

## LOCOMOTIVE LEASE AGREEMENT



THIS AGREEMENT, made and entered into this sixth day of March, 1997 by and between RELCO LOCOMOTIVES, INC., an Illinois Corporation, having its principal office in the city of Minooka, Illinois (hereinafter referred to as "Lessor") and FORMOSA PLASTICS CORPORATION, TEXAS whose address is in Point Comfort, Texas (hereinafter referred to as the "Lessee").

### WITNESSED:

WHEREAS, Lessee desires to lease from Lessor for use in its business operations, the locomotives hereinafter described upon the terms and conditions herein set forth; and

WHEREAS, Lessor agrees to furnish the locomotives hereinafter described and is willing to lease the same to Lessee upon the terms and conditions herein set forth.

NOW THEREFORE, the parties hereto, for and in consideration of the mutual covenants and promises herein set forth and other good and valuable consideration, receipt and sufficiency of which is acknowledged, agree as follows;

1. LOCATION OF USE AND DESCRIPTION OF LOCOMOTIVES. Lessor leases and lets unto Lessee and Lessee accepts and takes from Lessor for use at its Point Comfort, Texas facility the locomotives identified as two E.M.D.-GP9, 1750 horsepower, 125 ton locomotives.

2. RENT. Commencing on the date Lessee takes possession of the aforesaid locomotives, and thereafter during the term hereof and until possession of said locomotives are surrendered to Lessor, Lessee shall pay to Lessor for rental of said locomotives the sum as calculated for in the following table:

**LOCOMOTIVE MONTHLY LEASE RATE**

Two E.M.D. GP9, 1750 H.P., 125 ton locomotives

Base Monthly Rate: \$2,000.00 each

Fixed Monthly Maintenance Rate: \$3,800.00 each

The base monthly rate will remain fixed for the term of the lease; however, the fixed maintenance charges will be adjusted annually at a rate equal to the national rate of inflation as published by the U.S. Bureau of Labor Statistics, CPI. This increase not to exceed 3.0% annually.

The first payment of the base rate is due on or before the date Lessee takes possession of the aforesaid locomotives. The base monthly rental is due on the first day of each month and in addition to said base monthly rental, the Lessee shall pay to Lessor at the end of each month the fixed maintenance charge. The terms of payment are net 30 days. In the event the locomotives are out of service for repairs for more than one day during any month during the term of this lease, the full (base and maintenance) monthly rental charge for any such month will be reduced one thirtieth for each full day the locomotives are out of service. This credit will not apply if the repairs are necessitated by damage caused by the Lessee's negligence or abuse of the locomotives.

3a. LEASE TERM. This locomotive lease shall extend for an initial term of five years commencing with taking possession of the locomotives by Lessee, and shall continue from year to year after the conclusion of such initial term until terminated by either party hereto by such party giving to the other party thirty days notice in writing of its election to terminate this lease. In such event, this lease shall terminate at the expiration of said thirty day period following notice.

3b. CANCELLATION. The lessee shall have the right to cancel this lease contract in its entirety or as to any one or more locomotives subject to this lease with 30 days written notice of its intention to the Lessor. If canceled within the first five year term the following penalties apply:

- If canceled in the first twelve (12) months; a penalty equal to 12 times the full monthly (sum of base and maintenance) rate, as to each such locomotive.

- If canceled in the 13<sup>th</sup> through 24<sup>th</sup> month; a penalty equal to 6 times the full monthly (sum of base and maintenance) rate, as to each such locomotive.
- If canceled in the 25<sup>th</sup> through 60<sup>th</sup> month; a penalty equal to 3 times the full monthly (sum of base and maintenance) rate, as to each such locomotive.

Cancellation penalty will not apply if locomotive subject to this lease are purchased.

4. **ASSIGNMENT OF LEASE.** The base rate portion of this lease shall be assignable by Lessor and by its assigns with the written consent of Lessee, which consent shall not be unreasonably withheld, but Lessee shall not be obligated to any assignee of Lessor except upon written notice of such assignment from Lessor or such assignee. Notwithstanding anything to the contrary contained herein, the obligation of Lessee to pay Rental to such assignee shall be absolute and unconditional and shall not be affected by any circumstances whatsoever and such payment shall be made without interruption or abatement notwithstanding any event or circumstance whatsoever, including, without limitation, the bankruptcy or insolvency of Lessee or any disaffirmance of this Lease by or on behalf of Lessee, and notwithstanding any defense, setoff recoupment or counterclaim or any other right whatsoever, whether by reason of breach of this Lease or otherwise which Lessee may now or hereafter have against Lessor and whether any such event shall be by reason of any act or omission of Lessor or otherwise provided however, that nothing herein contained shall effect any right of Lessee to enforce against Lessor any claim which Lessee may have against Lessor in any manner other than by abatement, attachment or recoupment of interference with, or set-off, counterclaim or defense against, the aforementioned payments to be made to such assignee. Lessee's undertaking herein to pay the Rental to and to perform the other obligations of Lessee hereunder for the benefit of an assignee of Lessor shall constitute a direct, independent and unconditional obligation of Lessee to said assignee. Lessee also acknowledges and agrees that any assignee of Lessor's interest in this lease shall have the right to exercise all rights, privileges and remedies (either in its own name or in the name of Lessor) which by terms of this lease are permitted to be exercised by Lessor.

5. **MAINTENANCE BY LESSOR.** Lessor shall, at its expense, maintain the locomotives in good running condition and to Federal Railroad Administration rules. Lessor shall supply all replacement parts, lubricants and filters, and shall perform all maintenance repairs, and periodic inspections, lubrications, and filter changes.

6. **INSPECTION/MAINTENANCE BY LESSEE.** The Lessee will supply the locomotives with fuel, water/anti-freeze and sand, in accordance with Lessor's specifications as may be needed. The Lessee will perform minor repairs, daily inspections (per Lessor's "Daily Inspection Form #223" - schedule A), such routine maintenance as, but not limited to, addition of lubricating oils and adjustment of brake piston travel, replacement of bulbs, fuses, resetting of certain safety devices, and will protect the locomotives cooling water from freezing. Lessee will promptly report any defects to Lessor and will aid and cooperate with Lessor to identify the cause of defect, so that the Lessor may arrive onsite prepared to make the necessary repairs.

7. **LESSEE'S RESPONSIBILITY FOR DAMAGE TO LOCOMOTIVES.** The Lessee shall be responsible for all physical damage to the locomotives from any cause, other than normal wear or direct negligence of Lessor, while the locomotives are in the possession of Lessee. This shall include, but not necessarily be limited to damages resulting from collisions, accidents, derailments, vandalism and from the negligence on the part of the Lessee or Lessee's employees, agents or subcontractors or from the acts or omissions of the Lessee or its employees, agents or subcontractors. Lessee's liability for damage to the locomotives shall not exceed the sum of \$150,000.00 per locomotive, per occurrence.

8. **NOTICE OF DEFECTS.** Lessee shall notify Lessor promptly of any defects requiring repairs as observed by the Lessee. Lessee will permit Lessor's employees or agents on Lessee's property for the purpose of making inspections of or repairs to the locomotives.

9. **OPERATION BY QUALIFIED PERSONNEL.** Lessee is solely responsible for the safe operation of the locomotives and for insuring that all personnel involved in any way with the locomotives, including but not limited to those involved in the operation and maintenance of the locomotives are fully qualified and properly supervised.

10. **OPERATION ONLY IN SAFE LOCATION.** Lessee is solely responsible for determining where and when the locomotives shall be operated. Lessee acknowledges and fully understands that there is severe danger of fire or explosion if the locomotives are operated in any area or building in which a spark or flame could cause an explosion or fire, and Lessee assumes all risk of loss due to explosion or external fire in any way resulting from or connected with the operation of the locomotives while in Lessee's possession.

11. **LESSEE'S DEFAULT.** Time is of the essence of this agreement. Lessor, at its option, may by written notice to Lessee declare this lease in default on the happening of any of the following:

(a) Default by Lessee in payment or performance of any of its obligations under this lease.

(b) Voluntary assignment of Lessee's interest herein.

(c) Involuntary transfer of Lessee's interest herein.

(d) Expiration or cancellation of any policy of insurance agreed to be paid for by Lessee, or the cessation in force according to its original terms of such insurance, or of any extension or renewal of such insurance, during the entire term of this lease.

On declaration by Lessor that the lease is in default, the locomotives then subject to this lease shall be surrendered and delivered to Lessor, and Lessor may take possession of the locomotives wherever it may be found, with or without process of law, and for that purpose may enter on the premises of Lessee. On default, Lessee and Lessee's successor in interest, whether by operation of law or otherwise, shall have no right, title or interest in the locomotive leases under this lease, or the possession or use of such locomotives, and Lessor shall retain all rents and other sums paid by Lessee under this lease with respect to all such locomotives and shall be entitled to such other remedies as may be provided by law.

12. **RISK OF LOSS AND INSURANCE** All risk of loss and damage to the locomotives shall be borne by the Lessee as described in Paragraph #7 and the Lessee shall provide a certificate of insurance or a letter explaining Lessee's self insured status the following insurance with minimum limits of liability as shown below and on a form issued by insurers reasonably satisfactory to Lessor.

**Workers Compensation and Employers Liability**

**Statuary Limits**

Each Accident	\$ 500,000
Disease - Policy Limit	\$ 500,000
Disease - Each Employee	\$ 500,000

**Comprehensive General Liability**

Broad Form Blanket Contractual Liability, Broad Form Property Damage Personal Injury Liability with employee exclusions deleted, Products Completed Operations, Independent Contractors, Incidental



General Aggregate	\$ 2,000,000
Products - Comp Ops	\$ 1,000,000
Personal - Adv Injury	\$ 1,000,000
Each Occurrence	\$ 1,000,000

**Comprehensive Automobile****Owned, Non-Owned and Hired****Bodily Injury - Occurrence \$1,000,000****Property Damage -Occurrence\$1,000,000****Excess Liability****Umbrella Form \$ 5,000,000**

All policies shall be endorsed to show Lessor as a primary additional insured and provide thirty (30) days prior written notice to Lessor in the event of cancellation or material change. Lessee shall maintain such insurance and provide evidence of annual renewal during the term of this lease and if such insurance is a claims made policy; for a period of two years following the termination.

13. **TAXES, LICENSES.** The Lessee shall pay all sales taxes, use taxes, and personal property taxes, whether payable by the Lessor or the Lessee or others, on or relating to the possession, control, use or operation of the locomotives, and shall file all returns required therefore and furnish copies thereof to the Lessor. Upon demand, the Lessee shall reimburse the Lessor for any such taxes, assessments, charges, fines, or penalties, which the Lessor may be compelled to pay in connection with the equipment. The Lessor will cooperate with the Lessee and furnish the Lessee with any information available to the Lessor in connection with the Lessee's obligations under this paragraph.

14. **INDEMNITY.**

(a) The Lessee shall indemnify, protect and hold harmless the Lessor, its agents, servants, successors and assign from and against all losses, damages, injuries, claims, demands, and expenses, including legal expenses, of whatever nature, arising out of, incident to, connected with or in any way caused by the possession, control, use or operation of the locomotives by the Lessee, its employees, agents, servants, or subcontractors, or operation of the locomotives, regardless of where, how, and by whom operated, except for any damage, loss, or injuries resulting from the negligence or wrongful misconduct of Lessor.

(b) The Lessor shall indemnify, protect and hold harmless the Lessee, its agents, servants, successors and assign from and against all losses, damages, injuries, claims, demands, and expenses, including legal expenses, of whatever nature, resulting from negligence or wrongful misconduct of the Lessor, its employees, agents, servants, or subcontractors.

(c) The indemnities and assumptions of liabilities and obligation herein provided for shall continue in full force and effect notwithstanding the termination to the Lease Agreement, whether by expiration of time, by operation of law, or otherwise.

(d) The Lessor is an independent contractor and nothing contained in this Lease Agreement shall authorize the Lessee or any other person to operate any item of equipment so as to incur or impose any liability or obligation for or on behalf of the Lessor.

15. **FREIGHT.** Lessee shall pay all inbound freight charges, incurred in delivery of the locomotives to the Lessee's siding. Lessor will pay the outbound freight charges when the locomotives are shipped outbound. If for any reason this Lease Agreement is terminated before it has been in effect for five years, and Lessor is not in default, the Lessee shall reimburse the Lessor an amount equal of the actual outbound freight charges to the destination designated by the Lessor.

16. **POSSESSION.** Possession of the locomotives shall pass to Lessee as of the moment the locomotives arrive on Lessee's railroad siding track. Possession of the locomotives shall be reacquired by Lessor when the locomotives leave the Lessee's siding under the control of Lessor or its agents or employees after the termination of this Lease for whatever reason.

17. **TITLE TO LOCOMOTIVES.** Title to the locomotives which is the subject matter of this lease shall be and remain in Lessor's name at all times during the term of this Lease. Lessee shall not remove or permit to be removed any serial number, model, name or other indicia showing ownership of the locomotives in Lessor.

18. **INVALID PROVISION.** Any provision of this Lease Agreement found to be prohibited by law shall be ineffective to the extent of such prohibition without invalidating the rest of this Lease Agreement.

19. **CONSTRUCTION.** The validity, construction, and enforcement of this Lease Agreement shall be governed by the laws of the state of Illinois.

20. **CONSENT TO JURISDICTION.** By execution of this Lease, Lessor and Lessee hereby submit to the jurisdiction of the courts of the state of Illinois.

21. **COMPLETE AGREEMENT.** This Lease Agreement contains the entire understanding of the parties, and such understanding may not be modified or terminated except in writing signed by the parties.

22. **NOTICES.** All notices shall be in writing and delivered in person to an officer of the party to which such notice is being given or mailed by registered mail to such party at the address first above written, or to such other address as may be hereafter specified by like notice by either party to the other.

23. **BINDING EFFECT.** This lease shall be binding upon and inure to the benefit of the parties hereto, their successors, legal representatives, and assigns.

24. **FIELD SERVICE CONTRACT.** The Field Service Contract (F.S.C.) shall become part of this lease agreement. Any terms, conditions and sections of the F.S.C. that conflict with or contradict this Lease Agreement shall be null and void, as the Lease Agreement is the controlling document and shall prevail.

IN WITNESS WHEREOF, the Lessor and the Lessee have caused these presents to be duly executed the day and year first above written.

**LESSOR:**

RELCO LOCOMOTIVES, INC.

113 Industrial Ave.

Minooka, IL 60447

ATTEST: Jon Daelman

BY: Donald H. Bachman

TITLE: PRESIDENT

**LESSEE:**

FORMOSA PLASTICS CORPORATION, TEXAS

P.O. Box 700

201 Formosa Drive

Point Comfort, TX 77978

ATTEST: Mary L. Hall

BY: [Signature]

TITLE: CONTRACTING MANAGER